

**The Corporation of the Town of Essex**

**By-Law Number 2163**

**Being a By-Law to enter into a Site Plan Control Agreement between:**

**The Corporation of the Town of Essex and**

**McGregor Development Corporation**

Whereas pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, McGregor Development Corporation is desirous of constructing a 116-unit multi-unit dwelling on the lands legally described as PT LT 1, CON 11 W, PARTS 3 & 4 on 12R-19078, East of County Road 11, and as such is required to enter into a Site Plan Control Agreement with the Town of Essex;

And Whereas the subject lands are designated as a site plan control area pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto;

And Whereas pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, municipalities may enter into such agreements;

Now therefore be it resolved that the Council of the Town of Essex enacts as follows:

That the Mayor and Clerk be directed to affix their signatures, on behalf of the Corporation of the Town of Essex, to Schedule 1 attached hereto and forming part of this by-law, for the purpose of executing the Site Plan Control Agreement.

**Read a first, a second and a third time and finally passed on June 20, 2022.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

## **Schedule 1**

### **The Corporation of the Town of Essex**

#### **Site Plan Control Agreement**

This agreement made in triplicate, on June 20, 2022

**Between:**

**McGregor Development Corporation**

hereinafter called

**The Owner of the First Part**

**And**

**The Corporation of the Town of Essex**

hereinafter called

**The Corporation of the Second Part**

**Whereas** an application has been made by the Owner for approval of a development within the limits of the Town of Essex which lands are more particularly described as PT LT 1, CON 11 W, PARTS 3 & 4 on 12R-19078, Town of Essex;

**And Whereas** the proposed development is in accordance with the Official Plan of the Corporation as amended from time to time;

**And Whereas** the Corporation has enacted by-laws being by-laws designating the said lands as a site plan control area, pursuant to Section 41(2) of the Planning Act, R.S.O. 1990, as amended;

**And Whereas** where site plan control is in effect, Section 41 of the Planning Act, R.S.O. 1990, as amended requires the approval of plans and drawings by the Corporation prior to development and the Corporation may require the Owner to enter into an agreement respecting certain prescribed matters;

**And Whereas** the Owner wishes to undertake a development on the lands in accordance with the site plan, prepared by Haddad Morgan and Associates LTD, on file with the Corporation;

**Now Therefore This Agreement Witnesseth** that in consideration of the aforesaid mentioned premises and in consideration of the sum of Five Dollars (\$5.00) now paid by the Owner to the Corporation (the receipt of which is hereby expressly acknowledged), the parties hereto covenant and agree one with the other as follows:

1. The Owner hereby agrees to construct, provide, install and maintain for the life of the proposed development, to the satisfaction of and at no expense to the Corporation, all buildings, structures, landscaping, fencing, light standards, walkways, vehicular and bicycle parking and access areas, garbage disposal facilities, grading and provision for storm, surface and waste water, and other facilities in accordance with the approved site plan prepared by Haddad Morgan and Associates LTD, dated May 28, 2019 and revised on May 26, 2022, and on file with the Corporation, and in accordance with all the applicable provisions of the Corporation's Zoning By-law and such other relevant by-laws, as amended, and to the satisfaction of the Corporation;

### **Landscaping**

2. The Owner hereby agrees to install all such landscaping identified and in accordance with the site plan on file with the Corporation, to the satisfaction of the Corporation. The Owner agrees that all landscaped areas shall be maintained in good practice exclusively for landscaping purposes save and except for permitted signage and such other facilities permitted or required by the Town or utility provider.

### **Parking and Access Areas**

3. The Owner hereby agrees to construct and install all entrances, driveways, curbing, including pavement markings, and identification and directional signs in accordance with the approved site plan on file with the Corporation and in a manner satisfactory to the Corporation. The Owner further agrees to maintain all parking and driveway areas to the satisfaction of the Corporation;
4. The Owner hereby agrees to provide one-hundred and fifty-three (153) off-street parking spaces in accordance with the Town's Comprehensive Zoning By-law Number 1037 in the locations depicted in the site plan on file with the Corporation. Once required parking spaces and collector and manoeuvring aisles are paved with a hard surface, the Owner further agrees to delineate all required parking spaces by pavement markings to the satisfaction of the Corporation.
5. The Owner hereby agrees to provide six (6) barrier free motor vehicle parking spaces in the locations depicted in the site plan on file with the Corporation. Three (3) barrier free motor vehicle parking spaces shall have a width of 3.4 metres and include an access aisle of 1.5 metres next and parallel to each individual parking space throughout the entire length of the abutting parking space, except where a barrier free parking space abuts an access aisle. Three (3) barrier free motor vehicle parking spaces shall have a width of 2.4 metres with an access aisle of 1.5 metres next and parallel to each individual parking space throughout the entire length of the abutting parking space, except where a barrier free parking space abuts an access aisle.

6. The access aisles referred to in paragraph 5 shall consist of a hard surface and shall be diagonally striped to indicate that it may not be used for parking.
7. A sign shall be erected in front of each parking space referred to in paragraph 5 to distinguish that the parking space is reserved for barrier free motor vehicle parking only and the parking space pavement shall be marked as a barrier free motor vehicle parking space with appropriate symbols or lettering.
8. The Owner hereby agrees to provide six (6) bicycle parking spaces in the location depicted on the site plan on file with the Corporation.
9. The Owner hereby agrees to provide two (2) loading spaces in the location depicted on the site plan on file with the Corporation.
10. The Owner hereby agrees to reserve twenty-three (23) parking spaces for visitor parking and each space shall be clearly identified as visitor parking only by signage or pavement markings.
11. The Owner hereby agrees to only use full cut-off lights to illuminate the parking area and hereby agrees to arrange and design the lights to deflect light away from abutting lots on which a dwelling or dwelling unit is located.

#### **Storm Water Management Facilities**

12. The Owner hereby agrees to construct the stormwater management facilities depicted on the site plan on file with the corporation in accordance with the Stormwater Management Functional Design Report and drawings prepared by Haddad Morgan and Associates LTD and dated February 11, 2022.
13. The Owner hereby agrees to provide the Essex Region Conservation Authority (ERCA) a copy of the Report referenced in paragraph 12 and obtain a Section 28 permit and/or Development Clearance from the ERCA prior to commencing any works referenced in paragraph 11.

#### **Signs**

14. The Owner hereby agrees to obtain approval from the Town of Essex Building Division before installing any ground signage on the Subject Lands, to ensure that the signs are in accordance with the municipal sign bylaw.

#### **Special Provisions**

15. The Owner hereby agrees to provide to the satisfaction of the Traffic Engineer for the County of Essex, a Traffic Impact Study to determine the impact of the proposed development on County Road 11.
16. The Owner hereby acknowledges that sanitary allocation equivalent to 85 dwelling units for the proposed development will be available for a period of two (2) years following the adoption of this agreement, commencing on June 20, 2022 and ending on June 20, 2024. The allocation shall be in accordance with the Sanitary Analysis Report

prepared by Haddad Morgan and Associates LTD and dated April 22, 2021, on file with the Corporation.

17. The Owner hereby acknowledges that the allocation referenced in paragraph 16 shall be deemed null and void should, in the opinion of the Corporation, construction of the proposed multi-unit dwelling not commence within the period referenced in paragraph 16.
18. The Owner hereby agrees to provide to the Town of Amherstburg applicable site servicing drawings to their satisfaction prior.
19. The Owner hereby acknowledges to execute all recommendations and conclusions in the Parnell Street Site Plan Potable Water Serviceability Assessment completed by Stantec Consulting LTD and dated October 16, 2020, on file with the Corporation.
20. The Owner hereby agrees to provide to the Corporation a security deposit that is proportional to the size and significance of the development and the required works. The percent value of the deposit shall be determined prior to the execution of this agreement. The deposit shall be submitted to the Town in the form of either an irrevocable letter of credit or as cash to be kept in an interest-bearing account by the Town of Essex.
21. The deposit referenced in paragraph 20 shall be returned to the developer within 30 days of being notified by the Corporation that all required works as set out in this agreement have been substantially completed, with any deficiencies corrected, all to the satisfaction of the Municipality and follow any applicable federal, provincial, or municipal statute, by-law, or regulation.
22. The Owner hereby agrees to provide to the Corporation cash in lieu of parkland equivalent to five percent (5%) equal to the appraised value of the standard parkland conveyance at the time of site plan approval and prior to the execution of this agreement.
23. The Corporation acknowledges that the Owner is exempt from paying the municipal wide Development charge applicable for apartment rental housing as defined under the Development Charges Bylaw, Bylaw 1850, until June 20, 2024.
24. The Owner hereby agrees to pay the area specific charge outlined in the Development Charges Bylaw, Bylaw 1850, at the time of Building permit issuance and in the amount equal to \$52, 120. This amount is guaranteed until June 20, 2024.

### **General Provisions**

25. The Owner agrees to pay all outstanding Realty Taxes to the Corporation in advance of any building permit being issued for the proposed development.
26. The Owner hereby agrees to remove at no expense to the Corporation all snow from all driveways, parking and access areas and to remove and dispose of all refuse from the Subject Lands.

27. The Owner shall keep the municipal roads adjacent to the Subject Lands free from dirt and debris caused by the construction on the Subject Lands.
28. The Owner shall, at its entire expense, restore any curbs, gutters, pavements, sidewalks, drains or landscaped areas on the municipal roads which are damaged during construction and construct any new curbs, gutters, pavements, sidewalks, drains and landscaped areas on the municipal roads abutting the Subject Lands, all to the satisfaction of the Corporation.
29. The Owner hereby agrees to notify all local, provincial or federal authorities having jurisdiction as to their proposed program of work and shall obtain all necessary permits and/or approvals which may be required from any authority having jurisdiction.
30. The Owner hereby agrees to pay all costs incurred by the Corporation with respect to this Agreement, and without limiting the generality of the foregoing, shall include legal, planning, engineering and administrative cost.
31. The Owner acknowledges and agrees that pursuant to subsection (11) of Section 41 of the Planning Act, R.S.O. 1990, as amended, Section 325 of the Municipal Act applies to all requirements of this agreement. If the Owner neglects to undertake any matter or thing required to be done by this agreement and such default continues, in addition to other remedies available to it, the Corporation may direct that such matter or thing shall be done at the expense of the Owner and the Corporation may recover the expense incurred in doing it and the Owner hereby authorizes the Corporation to enter upon the said land and do such matter or thing.
32. This agreement may be amended at any time with the consent of the Corporation and the registered Owner of the said lands at the time of such amendment.
33. If any term, covenant or condition of this agreement shall, to any extent, be declared invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant or condition of this agreement shall be valid and be enforced to the fullest extent permitted by law.
34. The Owner hereby agrees to the registration of the within agreement in the Land Registry Office for the County of Essex (No. 12) by the Corporation's solicitor and at the entire expense of the Owner.
35. This Agreement is not assignable by the Owner (or any person claiming through or under the Owner) unless the assignee thereof shall first in writing covenant and agree with the Corporation to assume the burdens and obligations imposed upon the Owner under this Agreement and to undertake with the Corporation to observe and perform the obligations herein imposed upon the Owner.
36. This agreement shall inure to the benefit of the Corporation and shall be binding upon the Owners and their respective heirs, executors, administrators, successors and authorized agents.

37. The Corporation shall not be required to issue a building permit for the said development until all the preconstruction provisions of this Agreement have been complied with.

In Witnesseth Whereof, the said parties hereunto affixed their signatures and corporate seals attested to by the hands of their proper officers, duly authorized in that behalf.

Signed, sealed and delivered in the presence of:

**The Corporation of the Town Of Essex**

**Per:** \_\_\_\_\_

**Mayor**

**Per:** \_\_\_\_\_

**Clerk**

**Per:** \_\_\_\_\_

**Mike Quaggiotto**

**I have the authority to sign on behalf of  
McGregor Development Corporation**